

REMARKS

Claims 1-12 and 21-28 have been canceled. No claims have been canceled by way of this response. Applicants have amended claims 13 and 17. Thus, claims 13-20 are currently pending and presented for examination. Applicants respectfully request reconsideration and allowance of the pending claims in view of the following remarks.

Response to Rejections Under Section 112:

The Examiner has rejected claims 13-20 under 35 U.S.C. § 112, first paragraph as failing to comply with the enablement requirement. Specifically, the Examiner contends that "...it is unclear how this device would be of any benefit since it would be operational at a single frequency and faults are known to be not of an exact frequency."

Applicants respectfully submit that the relevant inquiry with regard to a claim rejection under 35 U.S.C. § 112, first paragraph, is whether the claims are enabled by the specification, and not the "benefit" that the claimed invention would provide as the Examiner contends. Applicants further submit that enablement must be viewed from the vantage point of one of ordinary skill. Accordingly, specifications "need only be reasonable with respect to the art involved; they need not inform the layman nor disclose what the skilled already possess. They need not describe the conventional The intricacies need not be detailed *ad absurdum*." Furthermore, "The question is whether the disclosure is sufficient to enable those skilled in the art to practice the claimed invention without undue experimentation; hence the specification need not disclose what is well known in the art." (citations omitted) See M.P.E.P. 2164.01.

Applicants respectfully submit that the Examiner has mis-construed the Applicants invention and that the entire specification must be read as a whole. Paragraph 0060 of applicants specification teaches the plate 9 vibrating at a "vibration frequency caused by the bearing 7 getting faulty." (see sub. spec., para. 0060). However, the previous paragraph, 0059, teaches the plate 9 hitting the stub 13 and resonating at its resonance frequency. Applicants respectfully submit that the plate impacting the stub causes a broad frequency spectrum vibration excitation energy input into the plate that vibrationally excites the plate 9 causing the plate 9 to resonate at its resonance frequency. Applicants further submit that the resonance frequency of a plate such as the plate 9 are easily controlled by fundamental physics, specifically, the relationship of the plate stiffness and mass where frequency is proportional to stiffness divided by mass.

Furthermore, the Examiners rational appears to be similar to a 35 U.S.C. 101 rejection, but the Applicants point-out that no such rejection is presented by the Examiner. However, Applicants respectfully submit that, in light of the above, the specification as filed describes a patentable invention having, among others, the specific benefit of providing a method and apparatus for audibly determining a machine failure.

In light of the above, Applicants respectfully request withdrawal of the 112, first paragraph rejections.

Response to Rejections Under Section 103:

Claims 13, 15-17, 19 and 20 stand rejected under 35 U.S.C § 103(a) as being obvious over Smith et al (USPN 5,691,707).

Applicants submit that Smith et al. is directed to a device for monitoring bearing performance. More particularly, Smith describes an electrical or electro-mechanical sensor that upon detection of vibration sends an electrical signal to an electrical receiver 37 (FIG. 2) for converting the electrical signal into an audible or visual record of the vibration. See Smith, col. 2, lines 25-28. See also Smith, col. 5, lines 13-15 describing that it is particularly preferred that the vibration sensing means (and temperature sensing means) be adapted to constantly send a respective signal to its associated receiver. That is, Smith expressly teaches away from the presently claimed invention being that Smith's sensor expressly requires sending an electrical signal to a receiver and only when receiver 37 converts this signal can an audible record be made.

In Contrast, Applicants claimed invention recites a vibratory method and device configured to mechanically generate the uniquely assigned acoustic signal and has nothing to do with sending an electrical signal to a receiver for conversion and generation of an audible record, as Smith requires. In view of the foregoing consideration, it is respectfully submitted that Smith fails to constitute an appropriate *prima facie* combination for rejecting claims 13 and 17 under 35 USC §103(a).

In connection with the rejection of claims 14 and 18, it is noted that Anderson fails to correct the fundamental deficiencies of Smith as discussed above. Accordingly, the Smith/Anderson combination fails to constitute an appropriate *prima facie* combination for rejecting claims 14 and 18 under 35 USC §103(a), and these rejections should be withdrawn.

Applicants respectfully submit that dependant claims 14-16 and 18-20 are allowable at least based upon their respective dependency from allowable claims 13 or 17 and on their own merit.

Conclusion

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. All correspondence should continue to be directed to our below-listed address. Accordingly, Applicants respectfully request that the Examiner reconsider the objections and rejections and timely pass the application to allowance. Please grant any extensions of time required to enter this paper. The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including fees for additional claims and terminal disclaimer fee, or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

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